

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: <u>0 3 — 0 1 2</u>	2. STATE: Puerto Rico
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE August 13, 2003	

5. TYPE OF PLAN MATERIAL (*Check One*):

☐ NEW STATE PLAN ☒ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☐ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

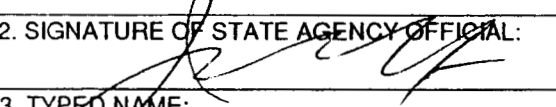
6. FEDERAL STATUTE/REGULATION CITATION: 1932 (e) 42 CFR 428.726	7. FEDERAL BUDGET IMPACT: a. FFY _____ \$ _____ b. FFY _____ \$ _____
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.30, Page 2 **** SEE REMARKS	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): New Page

10. SUBJECT OF AMENDMENT:

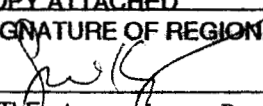
Sanctions

11. GOVERNOR'S REVIEW (*Check One*):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT ☒ OTHER, AS SPECIFIED:
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Not submitted to Governor's Office
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO:
13. TYPED NAME: Johnny Rullán, MD, FACPM	
14. TITLE: Secretary of Health	
15. DATE SUBMITTED: September 26, 2003	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED: SEP 30 2003	18. DATE APPROVED: 02/24/04

PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 08/13/03	20. SIGNATURE OF REGIONAL OFFICIAL: 
21. TYPED NAME: Sue Kelly	22. TITLE: Associate Regional Administrator Division of Medicaid and Children's Health

23. REMARKS:

Originally submitted page Attachment 4.30 Page 2 has been replaced with a new page and additional pages Attachment 4.30 Page 3 and 4.30 Page 4. PR SPA 03-012 now approved with changes effective 08/13/03.

State: [Puerto Rico]CitationSanctions for MCOs and PCCMs

1932(e)

42 CFR 438.726

- (a) The State will monitor for violations that involve the actions and failure to act specified in 42 CFR Part 438 Subpart I and to implement the provisions in 42 CFR 438 Subpart I, in manner specified below:

Pursuant to the terms and conditions of Commonwealth's Law 72 of November 7, 1993 and the existing Cooperative Agreement with the Department of Health, the Puerto Rico Health Administration (PRHIA) monitors violations for actions and failures as specified under 42CFR Part I 438 in accordance with the process and procedures set forth on the MCOs and PIHPs contracts and through the Plan Compliance Program's work plan, which serves as an instrumental tool for all programmatic and contract provisions monitoring.

Intermediate Sanctions: The PRHIA may impose intermediate sanctions to MCOs and PIHPs if they engage in any of the practices as set forth:

- (1) Fails to substantially provide medically necessary services to enrollees under this contract;
- (2) Imposes on enrollees premiums and charges in excess of the ones permitted under this contract;
- (3) Discriminates among enrollees on the basis of their health status or requirements for health care (such as terminating an enrollment or refusing to reenroll) except as permitted under the Program or engages in practices to discourage enrollment by recipients whose medical condition or history indicates need for substantial medical services;
- (4) Misrepresents or falsifies information that is furnished to CMS, to the PRHIA, to an enrollee, potential enrollee or provider of services;
- (5) Distributes, directly or indirectly through any agent, independent contractor, marketing material not approved by the PRHIA, or that contains false or misleading information;
- (6) Fails to comply with the requirements for physician incentive plans in section 1876 (i) (8) of the Social Security Act, and at 42 CFR 417.479, or fails to submit to the PRHIA its physician incentive plans as requested in 42 CFR 438.6(h);
- (7) Has violated any other applicable requirements of section 1903(m) or 1932 of the Social Security Act and any implementing regulations.

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Types of intermediate sanctions the PRHIA may impose:

The following types of intermediate sanctions may be imposed: Civil monetary penalties, termination, temporary management and granting enrollees the right to terminate enrollment without cause and notifying the affected enrollees of their right to disenroll; suspension of all new enrollment, including default enrollment after effective date of a sanction; suspension of payment for enrollees after the effective date of the sanction and until CMS is satisfied that the reason for imposition of the sanction no longer exists and is not likely to recur and temporary management.

Sanctions for MCOs and PCCMs

Civil Monetary Penalties(CMP) amounts thresholds are the following:

- (i) Between (\$500) to a maximum of (\$25,000) dollars for each determination of failure to provide services; misrepresentation or false statements to enrollees, potential enrollees or health care providers; failure to comply with physician incentive plan requirements; or marketing violations; or engages in behavior contrary to any requirements of section 1903(m) and 1932 of the Social Security Act and any implementing regulations;
- (ii) A maximum (\$100,000) for each determination of discrimination, or misrepresentation, or false statements to CMS or the PRHIA pursuant to 438 CFR 704(b) (2);
- (iii) A maximum (\$15,000) per incident up to a maximum of \$100,000 for each enrollee that was not enrolled because of a discriminatory practice;
- (iv) A maximum (\$25,000), or double amount of excess charges, whichever is greater, for charging premiums or charges in excess of amounts permitted under Medicaid regulations.

- (b) The State uses the definition below of the threshold that would be met before an MCO is considered to have repeatedly committed violations of section 1903(m) and thus subject to imposition of temporary management:

Special Rule: Temporary management only if it finds that egregiously or repeatedly behavior have been engaged in any of the stated practices on paragraph (a) of this article; or places a substantial risk on the health of enrollees; or engages in behavior contrary to any requirements of sections 1903(m) and 1932 of Title XIX, or there is a need to assure the health and safety of enrollees during an orderly termination, reorganization of the MCO, or while improvements are being made to correct violations. When imposing temporary management PRHIA must permit enrollees the right to terminate enrollment without cause, as described in 42 CFR 438.702(a) (3) and must notify enrollees of their right to disenroll.

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- (c) The State's contracts with MCOs provide that payments provided for under the contract will be denied for new enrollees when, and for so long as, payment for those enrollees is denied by CMS under 42 CFR 438.730(e).

____ Not applicable; the State does not contract with MCOs, or the State does not choose to impose intermediate sanctions on PCCMs.

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